

PLANNING COMMISSION

September 23, 2015

Action Report

WELCOME

SALUTE TO THE FLAG

ROLL CALL

PRESENT: Commissioners Yob, Abelite, O'Halloran, and Pham

ABSENT: Commissioners Ballard (arrived at 7:20 pm) and Bit-Badal

SUMMARY OF HEARING PROCEDURES

1. PUBLIC COMMENT

None

2. DEFERRALS AND REMOVALS FROM CALENDAR

No Items

3. CONSENT CALENDAR

- a. **C15-039**, Conventional Rezoning from the CG Commercial General and R-M Multiple Residence Zoning Districts to the DC Downtown Primary Commercial Zoning District on a 1.4-gross acre site, located at 33 N. 5th Street (SJSC Properties LLC, owner). Council District: 3. CEQA: Addendum to the Envision San José 2040 General Plan Final Impact Report (Resolution No. 76041).

PROJECT MANAGER, JENNIFER PIOZET

RECOMMENDED APPROVAL (4-0-2, BALLARD AND BIT-BADAL ABSENT)

Access the video, agenda, and related reports for this meeting by visiting the City's website at:

<http://www.sanjoseca.gov/planning/hearings/>

- b. [CP14-059 \(Administrative Hearing\)](#). Conditional Use Permit to allow for the conversion of an automotive service garage into a convenience store with the off-sale of alcohol (beer and wine) for an existing gas station, on a 0.69 gross acre site in the CP Commercial Pedestrian Zoning District located at the southwest corner of Berryessa Road and Capitol Avenue (1111 N. Capitol Avenue) (Nguyen Bao and Le Anh, Owners). Council District 4. CEQA: Exempt per CEQA Guidelines Section 15303(c) for New Construction of Small Structures. *PROJECT MANAGER, JOHN TU*
- APPROVED – RESOLUTION NO. 15-040 (4-0-2, BALLARD AND BIT-BADAL ABSENT)**
- c. [CP15-030 \(Administrative Hearing\)](#). Conditional Use Permit to allow the demolition of a single-family residence and the construction of an 11-space off-street parking establishment with open park space on an approximately 0.16 gross acre site in the CP Commercial Pedestrian Zoning District located on the westerly side of North 2nd Street, approximately 150 feet south of East Hedding Street (879 North 2nd Street) (O'Neill, Deborah M.S.; Owner). Council District 3. CEQA: Exempt per CEQA Guidelines Section 15301(l)(1) for Existing Facilities and 15311(b) for Accessory Structures. *PROJECT MANAGER, DAVID FONG*
- APPROVED – RESOLUTION NO. 15-041 (4-0-2, BALLARD AND BIT-BADAL ABSENT)**
- d. [CP15-045 \(Administrative Hearing\)](#). Conditional Use Permit to allow late night use for an existing bakery to open at 4:00 a.m. in the CG Commercial General Zoning District on a 1.98-gross acre site, located at 1657 McKee Road (1661 McKee road, LLC., Owner). Council District: 3. CEQA: Exempt per CEQA Section 15301(a) for Existing Facilities. *PROJECT MANAGER, LEA SIMVOULAKIS*
- APPROVED – RESOLUTION NO. 15-042 (4-0-2, BALLARD AND BIT-BADAL ABSENT). IN RESPONSE TO PUBLIC CONCERNS, STAFF ADDED AND AMENDED THE FOLLOWING CONDITIONS:**
- **11. ANTI-LITTER: THE SITE AND SURROUNDING AREA SHALL BE MAINTAINED FREE OF LITTER, REFUSE, AND DEBRIS. THE BAKERY WILL BE RESPONSIBLE FOR KEEPING ALL PUBLICLY USED AREAS AROUND THE BAKERY ALONG ANN DARLING DRIVE THAT IS CONTIGUOUS TO THEIR LOCATION, FREE OF LITTER, TRASH, CIGARETTE BUTTS, AND GARBAGE.**
 - **12. OUTDOOR USES: NO OUTDOOR USES OR OUTDOOR SALES OF GOODS IN FRONT OF THE SUBJECT SITE ARE APPROVED AS PART OF THIS PERMIT.**
 - **13. OFF-SITE LOADING/UNLOADING: ALL LOADING AND UNLOADING OF DELIVERED GOODS SHALL TAKE PLACE ON-SITE. NO LOADING, UNLOADING, STAGING, OR PARKING/STORAGE OF EQUIPMENT ASSOCIATED WITH THE PROJECT SHALL TAKE PLACE IN THE PUBLIC RIGHT-OF-WAY.**

- e. [PDC15-037](#). Planned Development Rezoning from the CG(PD) Planned Development Zoning District to the CG(PD) Planned Development Zoning District to allow an up to 257,296-square foot shopping center (Sun Garden) without limitation on the number of drive-through uses in conjunction with public eating establishments on a 19.7-gross acre site, located on the east side of Monterey Road, approximately 300 feet south of East Alma Avenue (1578 Monterey Road) (Sun Garden Packing Co. et-al, Owner). Council District 7. CEQA: Determination of Consistency with the Sun Garden Redevelopment Project Final Environmental Impact Report (FEIR), Resolution No. 75929.

PROJECT MANAGER, PATRICK KELLY

**RECOMMENDED APPROVAL (4-0-2, BALLARD AND BIT-BADAL ABSENT)
WITH A MINOR REVISION IN THE DRAFT ORDINANCE TO REFERENCE
THE DEVELOPMENT PLAN AS “SUN GARDEN CENTER,” AS LAST REVISED
ON SEPTEMBER 9, 2015**

4. PUBLIC HEARING

- a. [CP14-049 \(Administrative Hearing\)](#). Conditional Use Permit to allow the expansion of a previously approved residential care facility for up to 32 persons and one staff person on an approximately 0.44 gross acre site in the R-M Multiple Residence Zoning District located on south side of Lewis Road, approximately 100 feet westerly of Senter Road (551 Lewis Road). (439 S. 4th St. LLC, Owner). Council District 7. CEQA: Exempt per CEQA Guidelines Section 15301(e)(1) for Existing Facilities. *Deferred from 08/26/15. PROJECT MANAGER, DAVID FONG*

**APPROVED – RESOLUTION NO. 15-043 (4-0-1-1, BIT-BADAL ABSENT;
BALLARD ABSTAINED). UPDATED RESOLUTION; REVISED CONDITION
4.C. TO ALLOW A RESIDENTIAL CARE FACILITY FOR UP TO 30 PEOPLE
AND ADD A PERMIT CONDITION REQUIRING THE APPROVAL OF A
PERMIT ADJUSTMENT PRIOR TO THE ISSUANCE OF A BUILDING PERMIT
TO PROVIDE A SEVENTH PARKING SPACE TO ACCOMMODATE TWO ON-
SITE STAFF INSTEAD OF ONE**

- b. [An Ordinance of the City of San José](#) amending Title 20 of the San José Municipal Code (Zoning Code) to add new Sections to Chapter 20.200 (Definitions) to define “Outdoor Art,” “Art Display Structure,” and “Lighting Display,” and amend various Sections of Chapter 20.70 (Downtown Zoning Regulations) to add Art Display Structure as an allowable use in the DC-Downtown Primary Commercial Zoning District, add Lighting Display in parking lots as an allowable use and establish permitting criteria for Art Display Structures and Lighting Displays, modify and expand Amusement Game Arcade Use and add auction, second-hand stores, photography studios, weight loss centers, interior decorating, auditorium, and community centers as allowable uses in the DG-Downtown Ground-floor Space Overlay Area; to amend Section 20.70.100 to add references to require conformance with General Plan land use designations where residential uses are allowed; to amend Chapter 20.200 to modify definitions of Adult Entertainment Establishment, Amusement Game Arcade, Lot Line, Front Setback Area, and Side Setback Area; and to make other technical, non-substantive, or formatting changes within Title 20 including but not limited to Chapter 20.70 and Chapter 20.200. Council District: Citywide. CEQA: Envision San José 2040 General Plan EIR, Resolution No. 76041, and Addenda thereto; Downtown Strategy 2000 EIR, Resolution No. 72767, and Addenda thereto; and Diridon Station Area Plan EIR, Resolution No. 77096 and Addenda thereto (collectively, the “Final Program EIRs”). Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does

not involve new significant effects beyond those analyzed in the Final Program EIRs. File No. PP15-074. *Deferred from 09/09/15. PROJECT MANAGER, DIPA CHUNDUR*

RECOMMENDED APPROVAL (5-0-1, BIT-BADAL ABSENT)

5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

6. GOOD AND WELFARE

a. Report from City Council

City Council approved a Planned Development Rezoning to allow the expansion of Santana Row (File No. PDC13-050), a Planned Development Permit and Determination of Public Convenience or Necessity for the off-sale of alcohol at a restaurant on E. Tasman Drive (File Nos. PD15-016, ABC15-006), and a Planned Development Rezoning to allow a gas station and carwash on N. Capitol Road (File No. PDC14-065).

b. Review and Approve Synopsis from [9-9-15](#)

Synopsis Approved (5-0-1, Bit-Badal absent)

c. Subcommittee Formation, Reports, and Outstanding Business

No Reports

d. Commission Calendar and Study Sessions

The Planning Commission thanked staff for organizing the September 18 annual retreat.

ADJOURNMENT